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APPLICATION NO.	FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,881	11/20	6/2003	Stephen M. Ferkovich	0182. 02	6001
25295	7590	08/22/2006	EXAMINER		
USDA, AR	•		WEIER, ANTHONY J		
5601 SUNN' RM 4-1159	YSIDE AVE		ART UNIT	PAPER NUMBER	
BELTSVILL	E, MD 207	05-5131	1761		
			DATE MAILED: 08/22/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Diffice Action Summary    10/721,881								
Examiner Anthony Weier  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Indicated of time they be septidad under the protection of 37 CFR 1.736(b), in no ceret. Rowwin, they a traply a tember filled - If No period traply is septidad such the maintain dative priod via Japy and will expire SIX (MONTHS from the mailing date of the communication.  - Faule to exply which the said or extended priod for reply will, by stables, cause the application, even if stressly field, may reduce they - selected patient term adjustment. Set 37 CFR 1.734(b).  - Faule to exply which the said or extended priod for reply will, by stables, cause the application, even if stressly field, may reduce they - selected patient term adjustment. Set 37 CFR 1.734(b).  - Faule to exply which the said or extended priod for reply will, by stables, cause the application to become ABANDONED (39 U.S.C § 131)  - Faule to exply which the said or extended priod for reply will, by stables, cause the application become ABANDONED (39 U.S.C § 131)  - Faule to exply which the said or selected to reply will, by stables, cause the application become ABANDONED (30 U.S.C § 133)  - Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  - Disposition of Claims  - All Claim(s) 1-14 is/are pending in the application.  - (a) Claim(s) 1-14 is/are allowed.  - (b) Claim(s) 1-14 is/are allowed.  - (c) Claim(s) 1-15 is/are allowed.  - (c) Claim(s) 1-15 is/are allowed.  - (c) Claim(s) 1-15 is/are subject to restriction and/or election requirement.  - Application Papers  - 9   The pascellitation is objected to by the Examiner.  - (c) The drawing (s) filed on 1 is/are: a)   accepted or b)   objected to by		Application No.	Applicant(s)					
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1) Responsive to communication(s) filed on	<ul> <li>WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any</li> </ul>							
2a) ☐ This action is FINAL.  2b) ☐ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4i) ☐ Claim(s)	Status							
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## **DETAILED ACTION**

## Election/Restrictions

1. This application contains claims directed to the following patentably distinct species:

A. Claims 1-3 and 8-10: an insect egg protein supplement/artificial medium containing same comprising a homogenate of host insect eggs.

- B. Claims 4, 7, and 11: an insect egg protein supplement/artificial medium containing same comprising a pelletized embryonic host insect egg cells.
- C. Claims 5, 6, and 12-14: an insect egg protein supplement/artificial medium containing same comprising a homogenate of pelletized embryonic host insect egg cells.

The species are independent or distinct because each provides a different protein source in terms of composition and/or format.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

2. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier Primary Examiner Art Unit 1761

Anthony Weier August 15, 2006